



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2021-0482; FRL-9596-02-R3]

Air Plan Approval; Pennsylvania; Revision of the Maximum Allowable Sulfur Content

Limit for Number 2 and Lighter Commercial Fuel Oil

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The revision pertains to the reduction of the maximum allowable sulfur content limit for Number 2 (No. 2) and lighter commercial fuel oil, generally sold and used for residential and commercial furnaces and oil heat burners for home or space heating, water heating or both, from the current limit of 500 parts per million (ppm) to 15 ppm. EPA is approving this revision to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2021-0482. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Mallory Moser, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-215-814-2030. Ms. Moser can also be reached via electronic mail at moser.mallory@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On December 15, 2021 (86 FR 71213), EPA published a notice of proposed rulemaking (NPRM) that proposed approval of a SIP revision that incorporates the Commonwealth's updated low-sulfur fuel oil provisions into the Pennsylvania SIP. The SIP revision was submitted by Pennsylvania on September 4, 2020, requesting that EPA incorporate the Pennsylvania Department of Environmental Protection's (PADEP's) revisions to 25 Pennsylvania Code (Pa. Code) Chapters 123 Section 22 into the Pennsylvania SIP. In response to the NPRM, EPA received one comment supporting the proposed action which can be found in the docket. EPA received no adverse comments.

II. Summary of SIP Revision and EPA Analysis

The SIP revision incorporates amendments to 25 Pa. Code Chapter 123 section 22 which set the maximum allowable sulfur content limit for various fuel types into the Pennsylvania SIP. The amendments to 25 Pa. Code Chapter 123.22, reduce the SIP approved maximum allowable sulfur content limit for No. 2 and lighter commercial fuel oil, generally sold for and used in residential and commercial furnaces and oil heat burners for home or space heating, water heating, or both, from a limit of 500 ppm of sulfur to 15 ppm. The amendments to 25 Pa. 123.22, became effective on September 1, 2020.

The low-sulfur fuel oil provisions will aid in reducing regional haze and visibility impairment in Pennsylvania. Additionally, decreased emissions of sulfur dioxide (SO₂) will contribute to the attainment, maintenance, or both, of the SO₂ and fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS) in Pennsylvania and surrounding areas.

Other specific requirements of the SIP revision and the rationale for EPA's proposed action are explained in the NPRM and will not be restated here. Relevant support documents for this action are available online at <https://www.regulations.gov>, Docket number EPA-R03-OAR-2021-0482.

III. EPA's Response to Comments Received

EPA received one comment, from the State of New Jersey, supporting our proposed action in the December 15, 2021, NPRM. The comment received is in the docket for this rulemaking action. We received no adverse comments.

IV. Final Action

EPA is approving, as a SIP revision, the Commonwealth of Pennsylvania's September 4, 2020, submittal revising the maximum allowable sulfur content limit for No. 2 and lighter commercial fuel oil.

V. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Pennsylvania's maximum allowable sulfur content limit for No. 2 and lighter commercial fuel oil regulation described in 25 Pa. Code Chapter 123. EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

VI. Statutory and Executive Order Reviews

A. General Requirements

¹ 62 FR 27968 (May 22, 1997).

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, which pertains to commercial fuel oil sulfur limits for combustion and sale in the Commonwealth of Pennsylvania, may not be challenged later in proceedings to enforce its requirements. (See

section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Regional Haze, Sulfur oxides.

Dated: February 23, 2022

Diana Esher,
Acting Regional Administrator,
Region III.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

2. In § 52.2020, the table in paragraph (c)(1) is amended by revising the entry for “Section 123.22(a)”, the second entry for “123.22(b)”, the second entry for “123.22(c)”, the second entry for “123.22(d)”, the second entry for “123.22(e)”, and entries “Section 123.22(f)” and “Section 123.22(g)” to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) ***

(1) ***

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Title 25—Environmental Protection				
Article III—Air Resources				
* * * * *				
Chapter 123 - Standards for Contaminants				
* * * * *				
Sulfur Compound Emissions				
* * * * *				
Section 123.22(a)	Combustion units. [General provisions - air basins and non-air basins]	07/25/20	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Amended sections 123.22(a) 123.22(b), 123.22(c), 123.22(d), 123.22(e), 123.22(f), and 123.22(g). Previous approval July 10, 2014.

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
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123.22(b)	Combustion units - Erie Air Basin	07/25/20	[INSERT DATE OF PUBLICAT ION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Amended sections 123.22(a) 123.22(b), 123.22(c), 123.22(d), 123.22(e), 123.22(f), and 123.22(g). Previous approval July 10, 2014.
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123.22(c)	Combustion units - Upper Beaver Valley Air Basin	07/25/20	[INSERT DATE OF PUBLICAT ION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Amended sections 123.22(a) 123.22(b), 123.22(c), 123.22(d), 123.22(e), 123.22(f), and 123.22(g). Previous approval July 10, 2014.
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123.22(d)	Combustion units - Lower Beaver Valley Air Basin	07/25/20	[INSERT DATE OF PUBLICAT ION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Amended sections 123.22(a) 123.22(b), 123.22(c), 123.22(d), 123.22(e), 123.22(f), and 123.22(g). Previous approval July 10, 2014.
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State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
123.22(e)	Combustion units - Southeast PA Air Basin	07/25/20	[INSERT DATE OF PUBLICAT ION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Amended sections 123.22(a) 123.22(b), 123.22(c), 123.22(d), 123.22(e), 123.22(f), and 123.22(g). Previous approval July 10, 2014.
Section 123.22(f)	Combustion units - Sampling and testing	07/25/20	[INSERT DATE OF PUBLICAT ION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Amended sections 123.22(a) 123.22(b), 123.22(c), 123.22(d), 123.22(e), 123.22(f), and 123.22(g). Previous approval July 10, 2014.
Section 123.22(g)	Combustion units - Recordkeeping and reporting	07/25/20	[INSERT DATE OF PUBLICAT ION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Amended sections 123.22(a) 123.22(b), 123.22(c), 123.22(d), 123.22(e), 123.22(f), and 123.22(g). Previous approval July 10, 2014.
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